

Senate Joint Resolution 5 - Introduced

SENATE JOINT RESOLUTION _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1081)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

SENATE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution of
2 the State of Iowa eliminating a requirement that a criminal
3 offense, where the maximum permissible penalty does not exceed
4 thirty days of imprisonment, be prosecuted on information
5 under oath.
6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1356SV 83
8 jm/rj/5

PAG LIN

1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:
1 3 1. Section 11, unnumbered paragraph 1, of Article 1 of the
1 4 Constitution of the State of Iowa, is amended to read as
1 5 follows:

1 6 All offenses less than felony and in which imprisonment is
1 7 permitted by law and the maximum permissible imprisonment does
1 8 not exceed thirty days shall be tried summarily before an
1 9 officer authorized by law, on information under oath, without
1 10 indictment, or the intervention of a grand jury, saving to the
1 11 defendant the right of appeal; and no person shall be held to
1 12 answer for any higher criminal offense, unless on presentment
1 13 or indictment by a grand jury, except in cases arising in the
1 14 army, or navy, or in the militia, when in actual service, in
1 15 time of war or public danger.

1 16 2. Section 11 of Article I of the Constitution of the
1 17 State of Iowa is amended by adding the following new
1 18 unnumbered paragraph after unnumbered paragraph 1:

1 19 All offenses less than a felony and in which imprisonment
1 20 is not permitted by law shall be tried summarily before an
1 21 officer authorized by law, on information certified under
1 22 penalty of perjury, without indictment, or the intervention of
1 23 a grand jury, saving to the defendant the right of appeal.

1 24 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
1 25 amendment to the Constitution of the State of Iowa is referred
1 26 to the General Assembly to be chosen at the next general
1 27 election for members of the General Assembly, and the
1 28 Secretary of State is directed to cause the proposed amendment
1 29 to be published for three consecutive months previous to the
1 30 date of that election as provided by law.

1 31 EXPLANATION

1 32 This joint resolution proposes an amendment to the
1 33 Constitution of the State of Iowa eliminating requirements
1 34 that a criminal offense where imprisonment is not permitted by
1 35 law be prosecuted on information under oath.

2 1 The resolution effectively permits most simple misdemeanors
2 2 punishable as a scheduled violation to be prosecuted on
2 3 information that is certified under penalty of perjury rather
2 4 than under oath.

2 5 The resolution is in response to an Iowa supreme court
2 6 case, City of Cedar Rapids v. Atsinger, 617 N.W.2d 272(2000).

2 7 The resolution, if adopted, would be referred to the
2 8 Eighty-fourth General Assembly for adoption, before being
2 9 submitted to the electorate for ratification.

2 10 LSB 1356SV 83

2 11 jm/rj/5.1